

Attorney Docket No. 013341-000014

Arguments

Without asserting or admitting in any way that the Inventions as identified by the Examiner are not patentably distinct, the Applicant submits that the restriction requirement is improper. The search and examination of the entire application can be made without serious burden. The Examiner must therefore examine the application on the merits. *See* MPEP § 803.01.

The classifications identified by the Examiner evidence the limited nature of the search that the Examiner will need to perform. Classes identified by the Examiner in his Office Action include Classes 128, 600, 606, and 623. As set forth in the US Manual of Classification, Classes 600 and 606 are each considered to be an "integral part of Class 128," and all three of these classes are titled "Surgery." The corresponding inventions should therefore be examined in the same application as the search and examination can be performed without serious burden. Class 623 is directed to "Prosthesis (i.e., Artificial Body Members), Parts Thereof, or Aids and Accessories Therefor." Class 623, however, applies to only one invention identified by the Examiner, Invention VIII, and including this one invention in the examination with those otherwise classified does not present a serious burden.

Further, Inventions I, III, IV, and XI all are classified by the Examiner as Class 606, Subclass 153. If the Examiner rejects the Applicant's argument that all Inventions should be examined in this application, the Applicant asserts that at minimum the Inventions identified by the Examiner to be in the same subclasses should be grouped together for examination. The Applicant also asserts that Inventions V and VI are more

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appropriately classified in Class 606, Subclass 148, along with Invention II. These Inventions should also be grouped together for examination.

With respect to the election of species requirement, Species 2 relates to methods for performing a browlift. Species 1 relates to methods for performing a facelift, Species 3 relates to methods for performing a thighlift, and Species 4 relates to methods for performing a breast lift. The Applicant submits that the search and examination of all species would not pose a serious burden.

CONCLUSION

As discussed, the search and examination of all claims in the application does not pose a serious burden to the Examiner. On the contrary, the cost to the Applicant of pursuing the numerous Inventions is substantial. If the Examiner has any questions about the present Response or anticipates final restriction that rejects the traverses made herein, a telephone interview is respectfully requested.

Respectfully submitted,

Andrew Kaplan et al.

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By: 

Matthew W. Witsil

Registration No. 47,183

Moore & Van Allen
200 West Main Street, Suite 800
Durham, NC 27705
Telephone: (919) 286-8000
Facsimile: (919) 286-8199